

United States District Court
Middle District of Florida
Jacksonville Division

DELORES GIST,

Plaintiff,

v.

NO. 3:19-cv-753-J-32PDB

WAL-MART STORES EAST, LP, ETC,

Defendants.

Order

Novolex Holdings, LLC, requests an order requiring Delores Gist to submit to a physical examination by Claudio E. Vincenty, M.D., at 10475 Centurion Pkwy N. Suite 201, Jacksonville, Florida 32256.* [Doc. 41](#). Ms. Gist has no opposition. [Doc. 41](#) at 3.

Novolex explains the examination is necessary because Ms. Gist's physical condition is in controversy (a foot injury allegedly leading to complex regional pain syndrome). [Doc. 41](#) at 1–2; *see also* [Doc. 3](#), ¶¶ 23, 24, 30 (alleging injuries). Novolex explains Dr. Vincenty is an interventional pain management physician and “expert” in complex regional pain syndrome. [Doc. 41](#) at 2; *see also* [Doc. 41-1](#) (Dr. Vincenty's resume). Novolex explains Dr. Vincenty will determine whether the pain-syndrome

*There are three defendants in the case: Novolex; Wal-Mart Stores East, LP; and Bunzl Distribution USA, Inc. Novolex is the party named in the first paragraph as the movant. *See* [Doc. 41](#) at 1. The motion later uses the term “Defendants” (plural) as seeking relief, and the same attorneys represent both Novolex and Bunzl. The motion states that both Ms. Gist and Wal-Mart agree to the relief in the motion. [Doc. 41](#) at 3. Bunzl presumably also agrees to or moves for the relief.

diagnosis is accurate, provide an independent diagnosis, and determine whether any other injuries or preexisting conditions impact her left leg and foot. [Doc. 41 at 2](#).

Novolex explains that, because of the current pandemic, they have not finalized a date for the exam but intend to schedule it as soon as is practicable. [Doc. 41 at 2](#).

Under [Federal Rule of Civil Procedure 35](#), a court may “order a party whose mental or physical condition ... is in controversy to submit to a physical or mental examination by a suitably licensed or certified examiner.” [Fed. R. Civ. P. 35\(a\)\(1\)](#). The order “may be made only on motion for good cause and on notice to all parties and the person to be examined” and “must specify the time, place, manner, conditions, and scope of the examination, as well as the person or persons who will perform it.” [Fed. R. Civ. P. 35\(a\)\(2\)](#).

Novolex has established good cause. Ms. Gist’s physical condition is in controversy because she alleges she suffered physical injuries due to negligence by Novolex and others, the examination is focused on the claimed injuries, and she has no objection. The Court **grants** the motion, [Doc. 41](#), and **directs** Ms. Gist to appear at the examination with Dr. Vincenty at 10475 Centurion Pkwy N. Suite 201, Jacksonville, Florida 32256, at a time agreeable for all parties.

Ordered in Jacksonville, Florida, on April 2, 2020.



PATRICIA D. BARKSDALE
United States Magistrate Judge

c: Counsel of Record